

REMARKS

Claims 35 and 47 have been amended to correct what applicant considers to be a deficiency in the syntax of the pre-amendment language of each of those claims. It is applicant's view that the state of claims 35 and 47 as they existed before the present amendment did not rise to a level of being indefinite and failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claim 35, the mere absence of a precise technical antecedent basis for a term that already exists in the claim does not render the claim such that one of ordinary skill would not have understood its scope. If, after considering the foregoing, the examiner remains of the opinion that pre-amendment claims 35 and 47 were properly rejected under 35 U.S.C. §112 (as distinguished from a mere objection to language or syntax), it is requested that the examiner so advise applicant so that applicant may consider withdrawal of the present amendment to those claims.

Reconsideration was requested of the rejection of claims 1-3, 7-13, 16-18, 20-23, 26-29, 335-39 and 45-47 as anticipated by Ehr patent 6,334,870. Each of independent claims 1, 23, and 44 has been amended to clarify that each node has a central hub and only three arms extending from the hub. Additionally, claim 1 has been amended to clarify the pre-amendment limitation that each arm is connected only to a single arm of an adjacent node.

The rejection of claim 1 was based on the conclusion that Ehr discloses

- at least three arms extending from the hub; and
- the transition region for each arm is connected to an arm of an adjacent node.

As explained in applicant's previously filed remarks, that analysis would (1) misread claim 1 and (2) misapply Ehr '870.

To the extent that the rejection was based on the notion that claim 1 was not limited to an arrangement in which each node has only three arms, the present amendment should resolve that basis for the rejection. Also as stated in the previously

filed response, attachment 1 to the official action, a marked up copy of FIGS. 29 and 30 of the Ehr '870 patent, discloses four-arm, not three-arm nodes. Moreover, the nodes in Ehr '870 are arranged as connectors between pairs of spaced serpentine annular expandable elements. In Ehr, each arm of each node in FIG. 29 is connected, not to a single arm of an adjacent node, as claimed, but to a sinusoidal expandable member 12 that, in turn, is connected to a pair of non-adjacent nodes. In the embodiment shown in FIG. 30 on attachment 1, each node has two of its four arms connected to two arms of an adjacent nodes while the other two arms of each node are connected to the sinusoidal radially expandable members 12. Neither of the configurations disclosed in attachment 1 includes a plurality of nodes, each having a central hub with only three arms and with each arm being connected, at a transition region, to a single arm of an adjacent node.

Each of claims 2, 3, 7-13 and 16-22 depends directly or indirectly from claim 1 and is not anticipated by Ehr for the same reasons. To the extent that the comment in the action (made with respect to claims 8-10) that "... each [arm] of each node is connected to a different one of the adjacent nodes", that is incorrect. Each of FIGS. 29 and 30, at least two (FIG.30) and all four (FIG. 29) of the arms in each node are connected, not to adjacent nodes, but to the principal expandable members 12.

In addition to the limitations discussed above in connection with claim 1, claim 11 includes the additional limitation that the nodes are arranged so that a plurality of adjacent connected pairs of nodes lie along radially extending planes. In FIG. 29 of Ehr, none of the nodes are arranged to define connected pairs that lie in a radially extending plane. As to FIG. 30 of Ehr, although nodes are arranged to lie along the radially extended plane, those nodes are not connected to each other. Instead, they are connected to the intermediate zigzag expandable members 12.

As to claim 13, the action does not point out where the Ehr '870 patent discloses the claimed additional pairs of adjacent nodes that extend along a generally helical row. Ehr '870 fails to anticipate claim 13 for this additional reason.

Claim 23 has been amended to emphasize that each of the plurality of nodes has only three arms. As claimed, the stent is defined substantially entirely by said nodes. Ehr '870 fails to show such an arrangement and is not properly considered as anticipatory of claim 23. Each of claims 24-33 depends directly or indirectly from claim 23 and are not anticipated by Ehr for the same reasons

Claim 35 has been amended to define that each node is connected only to three adjacent nodes. Additionally, claim 35 requires (as it did in its pre-amendment form) that S-shaped links by which the nodes are connected are circumferentially oriented. Ehr '870 does not disclose an arrangement in which each node is connected only to three adjacent nodes and in which some of those links are circumferentially oriented.

Claim 36 has been amended to clarify the pre-amendment scope of the claim that each node has only three arms. Additionally, claim 36 is directed to a stent in which the three arms of each node are of a sufficient length to flex to permit the central hub to be displaced transversely with respect to the surrounding regions of the stent wall. There is nothing in the Ehr '870 patent that discloses such an arrangement or the desirability of the claimed ability for the central hub to flex transversely (i.e., generally radially).

As to claim 39, the action appears to be incorrect in its conclusion that "each of the nodes in Ehr '870 is shared by three adjacent clusters. In the FIG. 29 embodiment, none of the nodes is shared by any adjacent clusters. In the FIG. 3 embodiment, to the extent that a cluster may be defined, none of the nodes shares more than two adjacent clusters.

Claim 45 has been amended, as has claim 1, to state that each node has only three arms extending from the hub. Additionally, claim 45 requires that the connected arms of the adjacent nodes define a substantially continuously curving S-shaped link between those nodes. As discussed above in connection with claim 1, FIG. 29 of Ehr '870 does not disclose an arrangement in which each arm is connected to an arm of an adjacent node to define a substantially continuously curving S-shaped link between those nodes. Plainly no such arrangement is shown for any of the nodes in FIG. 29 of

Ehr. Although some of the adjacent nodes in the embodiment of FIG. 30 may be considered as having S-shaped links, none of the nodes has only three arms in which each arm includes the claimed substantially continuous curving S-shaped link between those nodes.

Claim 46 also has been amended to refer to each node having only three arms.

Reconsideration also is requested of the rejection of claims 23, 26-28, 35 and 44-48 as anticipated by Ley patent 6,231,599. Claim 23 has been amended to include the limitation that each of the arms in each of the nodes is curved and lies closely adjacent an arm segment of an adjacent arm. In each embodiment in Ley, the arms of the nodes do not lie closely adjacent an arm segment of an adjacent arm. Ley does not disclose a compact arrangement that is enabled by the claimed arrangement in which portions of adjacent arms lie closely adjacent each other. Indeed, Ley appears to disclose the opposite, in which the arms diverge from the hub. Each of claims 26-28 depends from claim 23 and is not anticipated by Ley for the same reasons. Additionally, claim 28 includes additional limitations to the arrangement of the nodes in helical rows, being serially connected to each other by a link and to a node in each adjacent helical row. The figures referred to in the official action (1, 5, 7, 14a, 15a, 22a) are not seen to meet all the limitations of claim 28. Should the examiner remain of the same view as that expressed in the action, it is requested where the figures of Ley disclose the arrangement defined in claim 28.

Claim 35 includes limitations to each node as connected only to three adjacent. FIG. 22a does not disclose this claimed feature.

Claim 44 has been amended to clarify that each node has only three arms with each arm circumscribing a segment of the next adjacent arm of that node and lying closely adjacent that arm segment. It is apparent from FIG. 22a of Ley that it does not disclose an arrangement in which the nodes have only three arms and in which circumscribing portions of the arms lie closely adjacent the segment of the next adjacent arm of that node. In Ley, there are substantial gaps between adjacent arms.

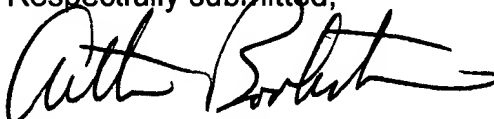
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Claim 46 similarly requires the nodes to have only three arms. Additionally, claim 46 requires the presence of a gap between adjacent arms that is of substantially constant width. Plainly that is not disclosed in FIG. 22a of Ley, as stated in the action.

Reconsideration also is requested of the rejection of claim 19 as unpatentable over Ehr '870 under 35 U.S.C. §103(a). Claim 19 depends from claim 1 and includes the same limitations discussed above that are not present in Ehr. Where there is no additional evidence to support the rejection of claim 19 under 35 U.S.C. §103(a), that rejection is improper.

Reconsideration is requested.

Respectfully submitted,



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